

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**February 15, 2018**

Diane M. Fremgen  
Acting Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2017AP900**

**Cir. Ct. No. 2016SC454**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

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**ROSAURA CHONCOA,**

**PLAINTIFF-APPELLANT,**

**V.**

**VANESSA BUEN ROSTRO AND ANGEL CASTRO-CRUZ,**

**DEFENDANTS-RESPONDENTS.**

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APPEAL from a judgment of the circuit court for Clark County:  
JON M. COUNSELL, Judge. *Affirmed.*

¶1 SHERMAN, J.<sup>1</sup> Rosaura Choncoa appeals, pro se, a judgment of the small claims court awarding \$800 to Vanessa Buen Rostro and Angel Castro-

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise indicated.

Cruz (collectively, the respondents), also pro se, stemming from a loan from Choncoa to the respondents. For the reasons explained below, I affirm

### **DISCUSSION**

¶2 Choncoa filed the present small claims action against the respondents, seeking to recover \$2,000, which Choncoa alleged she loaned the respondents but was never repaid. The respondents answered that they had paid Choncoa \$2,900 in total and they counterclaimed, seeking return of their car title. The sole issues at trial were what amount, if any, remained owing on the loan and whether the respondents were entitled to the return of their collateral.

¶3 It was undisputed at trial that Choncoa loaned the respondents \$2,000 with interest due in the amount of \$200 per month, and with the principal balance due on May 8, 2016.<sup>2</sup> Buen Rostro testified that as collateral for the loan, she and Castro-Cruz gave Choncoa the title to a vehicle belonging to them. Buen Rostro testified that when the principal balance on the loan was due, she paid Choncoa \$1,500, but was unable to pay Choncoa the remaining \$500 owed. Buen Rostro testified that she paid Choncoa \$200 per month in interest for seven months, for a total additional payment of \$1,400. Buen Rostro testified that her payments to Choncoa were made in cash and that she was not provided a receipt for any of the payments. Choncoa testified that the respondents had failed to make any payments on the loan and that the full amount of the loan remained unpaid.

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<sup>2</sup> Choncoa agreed prior to trial that the interest charged on the loan is excessive under applicable law.

¶4 The circuit court found Buen Rostro’s testimony to be credible and that she and Castro-Cruz had paid Choncoa \$1,500 toward the principal balance on the loan and \$1,400 in interest, for a total payment of \$2,900. The court found that Choncoa was entitled to \$2,000 plus statutory interest in the amount of \$100. The court entered judgment against Choncoa in the amount of \$800, which is the total amount paid by the respondents less the total amount Choncoa is entitled to under the loan. Choncoa appeals.

¶5 Choncoa contends the circuit court erred in awarding the respondents \$800. Choncoa argues first that the court’s finding that the respondents made payments to her totaling \$2,900 “defies reason” because the respondents failed to present documentary evidence that they made payments. We uphold a circuit court’s findings of fact unless they are “clearly erroneous.” WIS. STAT. § 805.17(2). A circuit court’s factual findings are not clearly erroneous if they are supported by any credible evidence in the record, or any reasonable inferences from that evidence. *See Insurance Co. of N. Am. v. DEC Int’l, Inc.*, 220 Wis. 2d 840, 845, 586 N.W.2d 691 (Ct. App. 1998).

¶6 Evidence at trial includes not only exhibits, but also witness testimony. Here, the circuit court reviewed the evidence presented at trial, which included the testimony of Choncoa, Buen Rostro, Castro-Cruz, and Choncoa’s husband, Carmelo Hernandez Garcia, and the court determined that Buen Rostro’s testimony that she had made principal and interest payments in the amount of \$2,900 was credible. This court defers to a circuit court’s credibility determinations because that court “is in the best position to evaluate ... credibility.” *State v. Carnemolia*, 229 Wis. 2d 648, 661, 600 N.W.2d 236 (Ct. App. 1999). This court will not upset a finding as to the credibility of a witness unless that finding is clearly erroneous. *State v. Terrance J.W.*, 202 Wis. 2d 496,

501, 550 N.W.2d 445 (Ct. App. 1996). Choncoa does not argue that the circuit court's credibility determination was clearly erroneous and I see no basis to disturb that finding. Therefore, there is credible evidence in the record that supports the circuit court's finding that \$2,900 was paid and that finding is not clearly erroneous.

¶7 Choncoa also argues that the court erred in awarding the respondents \$800 because the respondents did not counterclaim for an award of \$800 in their counterclaim. However, Choncoa has not cited any authority stating a legal basis for her argument. This court does not address arguments unsupported by references to legal authority. *State v. Pettit*, 171 Wis. 2d 627, 646, 492 N.W.2d 633 (Ct. App. 1992); *see also* WIS. STAT. RULES 809.19(1)(e) and 809.83(2).

¶8 Because Choncoa has not established that the circuit court's award in favor of the respondents was erroneous, I affirm.

*By the Court.*—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

